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## A MUNICIPAL PROGRAM.<sup>1</sup>

In January, 1894, a Conference for Good City Government, held in Philadelphia, was attended by a goodly number of representative men, mainly from the Eastern states. Out of this Philadelphia Conference grew the National Municipal League, organized in New York City in May, 1894, and embracing in its affiliated membership the leading municipal reform organizations and, in its associate membership, students of municipal government throughout the United States. From 1894 to 1897 the League gathered information as to actual municipal conditions in typical American cities in every part of the country, from Boston to San Francisco, and from Chicago to New Orleans. From these cities of every class, whether a huge cosmopolitan city like New York, a small city of homogeneous population like Indianapolis, a bustling manufacturing city like Pittsburg, whether one of the older cities like Baltimore or Albany, or one of recent growth like Portland, Oregon, came the report that the local government was unsatisfactory, extravagant, inefficient and all too frequently that it was corrupt. It was plain that, tested by any standard of what such a government ought to be, city government was a failure in the United States.

This showing was appalling, and the League at its meeting in Louisville, in May, 1897, appointed a committee "to report on the feasibility of a Municipal Program, which will embody the essential principles that must underlie successful municipal government, and which shall also set forth a working plan or system consistent with American industrial and political conditions for putting such principles into practical operation." The committee made a preliminary report at the Indianapolis meeting of the League in 1898,

<sup>1</sup> *A Municipal Program*. Report of a Committee of the National Municipal League. Pp. 246. Price, \$1.00. The Macmillan Company.

and its final report at the Columbus meeting in November, 1899, when the League unanimously adopted the recommendations of the committee. This final report, published by the Macmillan Company under the title "A Municipal Program," is the subject of this paper.

The historical origin of American municipal government is in the chartered boroughs or municipal corporations of the Colonial period, when charters were granted by the provincial governors. The powers of the local government and its methods of administration were enumerated in the charter. Usually the governor appointed the mayor, who, however, had no special charter powers of great importance. From time to time the Colonial Assemblies granted additional powers for special purposes; and, since the municipality had no authority to levy a tax, whenever it wished to enter upon any undertaking involving taxation, it was forced to apply to the Colonial Assembly for the special authority. Toward the end of the Colonial period there were no municipal charters from the provincial governors, and the Colonial Assembly had come more and more to be regarded as the proper authority to control the local administration, not, however, so as to interfere with the powers already contained in the charter.

After the Revolution, municipal charters were simply legislative statutes and, as such, subject to change by later legislative statutes; and the charters granted by the provincial governors in Colonial times were now regarded as equally subject to the power of the state legislature. As the cities grew in number and population, this supremacy of the legislature continued. The legislature decided whether an additional power should be given to the municipality, or an old one taken away or modified, or a completely new schedule of powers should be granted. The legislature also decided what should be the scheme of city governmental organization to exercise the powers granted and altered the scheme whenever it saw fit.

The powers granted to cities, however, in Colonial times and for many years after the Revolution, were few in number. The public affairs of cities were on the whole matters of petty housekeeping, not calculated to arouse great public interest. A very small proportion of the population of the whole country lived in cities. As late as 1810 the public expenditures of New York City, with a population of 100,000, were only \$100,000. "In 1820 there were but thirteen towns in the United States with 8,000 population, and their combined population was less than five per cent of the entire population of the country." There was little, if anything, to create local political parties, *i. e.*, parties divided upon local questions. The active political interests of the citizens were centred in national questions, and contests for local office were a part of the strife in national politics, local appointive office early becoming the spoils of partisan politics. New York's mayor, for instance, at that time appointive, was changed nine times between 1801 and 1823, as often, that is, as the Council of Appointment changed its political complexion; in the Colonial period, although the mayor's nominal term was one year, he frequently retained the office for ten years.

By 1850 there were eighty-five towns in the United States with populations of 18,000 and upwards, and their combined population was approximately 3,000,000, about 12½ per cent of the population of the country. New York City then had a population of 500,000, Philadelphia 400,000, Boston and Baltimore 200,000 each. During this period of growth the cities were of necessity undertaking additional functions and, since the state legislatures were the source of municipal powers and legislative statutes were the means of granting them and regulating their exercise, special and local acts of state legislatures became increasingly frequent. The Ohio Legislature, in its session of 1849-50, passed 545 such acts.

Already, in 1850, the forces were clearly visible which

were massing population in centres of trade and manufacture; and, even then, discerning men could have foreseen the evil consequences of continuing the temporizing and little-considered methods of meeting the growing needs of municipalities. Only a few years earlier in England, when the city problem began to be of importance, there was, first, a careful investigation of the facts, and then, in 1835, a general Municipal Corporations Act passed by Parliament, so sound in its principles and so adjusted to the varying local needs of cities large and small throughout the kingdom, that, with comparatively unimportant changes, it has remained the fundamental law to this day under which the British cities have developed models of progressive and efficient municipal government adapted alike to their political traditions and their local needs. In this country, at the very time when there was most need of similar provision and wise preparation, almost the entire public political interest was necessarily centered in national questions. In the intensely exciting decade before the Civil War, during the war itself and during the years of reconstruction, the cities were left to grow and multiply without any well thought out plan for their government, with indeed scarcely any consideration of the principles which should underlie healthy and efficient municipal development. The struggle for national life and the ever-increasing effort of the people to become effective and direct participants in the control of national affairs, in spite of the obstacles imposed by the rigid framework of constitutional checks and balances, were the most marked political factors in the political growth of the country down to the close of the reconstruction period. The Civil War and Reconstruction settled the question of national life. That public attention should then begin to be directed more effectively to questions of local government was inevitable. It was equally inevitable that the same line of political development which tended to give the people a more direct and effective control in the public affairs of the nation should

now and for similar reasons begin to manifest itself in the field of local government. During the last two decades the efforts to improve municipal government have been directed more and more plainly toward securing effective responsibility to the people of the locality on the part of those charged with the satisfaction of their local needs or the control of their local public affairs.

In a country like ours, permeated with the democratic spirit, the problem of securing honest, progressive, efficient government is at bottom essentially the same whether considered as a national question or as one relating to a single city like Columbus or Philadelphia. In both cases, the first requisite is that the government shall be the product of and conform to the will of the governed when that will is deliberately expressed; shall be evolved from and responsible to the people it governs, not imposed by some outside authority. No other government can be good government according to the American democratic ideal, and the struggle to attain the realization of that ideal is the most potent and most permanent factor in our political development.

It is because until the closing years of the nineteenth century but slight public attention had been directed in this country to municipal government, and because the people, absorbed in other public questions, had left the cities to increase in population and multiply in number while applying only haphazard, makeshift and temporizing governmental methods to local public affairs, that we have a "Municipal Problem." The failure of city government in the United States has not been a failure of democracy. The brief outline we have given of our municipal history has shown, and a more detailed and thorough examination would but emphasize, the truth of the statement, that from the beginning there has not been a single city with a government based upon fundamental democratic principles and adequately equipped to apply those principles in the practical conduct of its public business. There has been in the popular mind no

concept of a city as government. No city has had adequate power of local government. Every city has been obliged to apply to some outside authority for grant of power to meet local needs. Taking New York as an example, even so recently as in 1870, its annual tax levy was laid by the state legislature. Even now, by far the largest portion of its huge annual budget, amounting to almost, if not quite, \$100,000,000, to be raised by local taxation, consists of expenses under mandatory acts of the state legislature; and to these must be added many millions more spent annually, the proceeds of bonds issued under legislative orders and to be paid by taxes upon city property. Whatever else such a city government may be, it is not a government of the city by its citizens or responsible to them. Its charter is a congeries of session laws covering hundreds of pages, changed in many respects, and attempted to be changed in many more, at every session of the legislature. New York but typifies upon a larger scale the conditions of city government generally.

To the superficial observer this condition sometimes indicates that political traditions in this country are against the application of democratic principles to the conduct of city affairs. A deeper insight and wider knowledge disclose a constant and growing popular unrest and discontent at the failure to apply these principles and a continual effort on the part of the cities to assert their rights to independence and to attain an assured and definite position in our governmental system. For now nearly half a century, that is, practically ever since cities began on account of their growing population and needs to assume much importance, there has been a slow but sure awakening to the fact that the city in the United States has been made the victim of forces which did not express the will of the people of the city, and that the means for expressing or enforcing that will as to matters of local public policy have been very imperfect, or practically non-existent. Along with and as a part of this awakening

there have been repeated efforts to free the city from the caprice of its tyrant, the state legislature, and to devise some way of expressing and enforcing the local will unconfused by national political partisanship. The many amendments to state constitutions which forbid or attempt to safeguard special city legislation, the classification of cities for purposes of legislation, the separation in date of local from general elections, the gradual increase in the power of the mayor in the city administration in order that the people of the city may hold someone directly responsible for the use of power in local matters, the limited veto which under New York's latest constitution may be exercised by the local authorities on the power of the legislature to enact local laws, the partial recognition in some states of a right in the people of a city to make its own organic law and scheme of government, and the widespread and growing interest in the ways and means to better municipal governmental conditions are full of meaning to the student of political history.

From the dawn of political history, two opposing tendencies have been in unceasing conflict. Their sources lie deep in human nature itself. On the one side, the ruler has sought to preserve and enforce authority without responsibility to the governed. On the other, what, at first on the part of the governed, was a mere resistance to oppression, gradually became an effort more and more conscious to secure from and enforce upon the ruler responsibility for the exercise of power. The effort has been often ill-directed. At times, it has been so intent upon the immediate gain as ignorantly to raise obstacles to further progress. Sometimes it has seemed entirely overslaughed by temporary exigencies, but it has never been wholly absent; and the ultimate result has never been doubtful since the essentially industrial character of advancing civilization has become pronounced—the realization of a government of the people, by the people and for the people through representatives chosen by and responsible to the people. No doubt this democratic ideal

has until comparatively recently been consciously present to the minds of but comparatively few of the active participants in the ages-long struggle between political authority over the people and political responsibility to the people for the use and abuse of authority. No doubt there are very many at the present time, even in the United States, who apprehend but very imperfectly, if at all, the intense energy of this movement toward democracy; yet the problem of problems politically is now, as for a long time past, how to enable this tremendous and in the end resistless force to attain its legitimate goal by peaceful evolution. Revolution is the alternative. He who has not learned this lesson has read political history to little purpose.

Almost eight hundred years ago, on the meadow of Runnymede, the Great Charter was exacted from a reluctant king. To us it seems to proclaim self-evident truths. But to secure their formal statement by political authority cost untold centuries of blood and suffering, and their enforcement is even now not complete. Yet, they but recognize some of the defensive rights of man, that he may live in reasonable security. It was inevitable that the recognition by the political authority of defensive rights in the governed, certain limits beyond which the arbitrary power of the government should not go, would be followed by the assertion and the ultimate recognition of rights in the governed which would tend to make an end of all arbitrary exercise of power by the government; that this, in turn, should be followed by the recognition of the right in the governed to take some direct and effective part in the government. And during the last century more and more plainly with each decade has appeared the ultimate end toward which from the outset the resultant of all the contending political forces has been tending during Anglo-Saxon history,—government chosen by and responsible to the governed, the identity of the government with the governed. In this country, since the Declaration of Independence, this doctrine has been pro-

claimed unceasingly from pulpit and platform and disseminated by the printing-press until it has become a fundamental article of political faith; and the history of governmental development in the United States is the history of the attempt to unite political power with political responsibility to the people as the source of the power.

Any scheme of municipal government, to be successful in the United States, must be an adequate expression of this fundamental democratic doctrine. And the government of the city, *i. e.*, those charged with the determination of its local public policy and the carrying out of the policy, must be chosen by and responsible directly to the people of the city. How shall this be done? Manifestly, the very first prerequisite is to clothe the city with ample power to manage its own affairs without outside aid; and, this accomplished, the next prerequisite is to prevent any outside authority from interfering. But the city is a subordinate division of the state and the state government *must* interfere. The state's policy, for example, as to the liquor traffic or as to education or public health must be enforced within the city limits. True, but this can be accomplished without the state prescribing with meddlesome detail the *entire* local policy in these respects. Does it follow because Ohio or Pennsylvania has a standard as to public education, or as to sanitary regulations applicable to the state at large, that therefore the legislature at Columbus or at Harrisburg must decide the *whole* educational policy or establish *all* the health ordinances of Cleveland and Philadelphia? Of course not. The distinction is obvious. The state legislature should confine itself to declaring the *state* policy; the enforcement of that policy in the cities should be entrusted to state administrative officials or to officials selected by the city, who should be subject to the supervision of a state administrative official. With the local city policy, as such, the state legislature should have nothing to do; it should pass no law affecting cities, except those equally applicable to all

cities or all the inhabitants of the state.<sup>1</sup> Neither this principle nor its application is a novelty. In New York the state policy as to the liquor traffic is declared in a state law and enforced by state officials in every part of the state; and the state educational policy is enforced by local officials under a state commissioner of education, while the localities vary greatly among themselves as to the extent and kind of education afforded at public expense not inconsistent with the state standard, and the local standard is often much higher. There is also in the same state very efficient state administrative supervision of the prisons and charitable institutions throughout the state. To clothe a city, therefore, with all necessary powers of government, and then leave it to exercise those powers subject to central state administrative (not legislative) control as to all matters of general state policy, equally applicable to all cities or all the inhabitants of the state, would not be revolutionary or contradictory to wholesome precedent. It would be in the direct line of political development and tendencies during the last twenty-five years which have sought to restrict special legislation for cities and have entrusted to state administrative officers the enforcement, or supervision of the enforcement, of state laws. Moreover, an examination of the governmental powers granted to cities discloses that, while not one city has sufficient power to manage its local affairs without aid from the state legislature, there is scarcely one governmental power which has not been granted to some city, and the manifest

<sup>1</sup> The Municipal Program of the National Municipal League contains the following provision:

"Special laws shall require the affirmative vote of two-thirds of all the members of the legislature, and shall not be valid in any city unless they receive the formal approval of its council within sixty days after the passage thereof by the legislature, or, within thirty days after disapproval by the council of the city, shall again be passed by the legislature by the affirmative vote of two-thirds of all the members of the legislature, which two-thirds shall include three-fourths of the members of the legislature from districts outside of the city or cities to be affected. The failure of the council of the city to take formal action approving or disapproving a special law shall be deemed a disapproval thereof. Laws repealing such special laws may be passed in the manner provided for the passage of general laws."

tendency has been to grant more and more governmental powers to cities.

We have now stated the fundamental principle upon which is based the Municipal Program of the National Municipal League,—ample power in the city to conduct the local government, without possibility of outside assistance or of outside interference save by such supervision of a central state administrative authority as may be necessary to enforce a state law applicable alike to all the cities or all the inhabitants of the state. All else in the program is detail in the application of this principle. It is possible, had municipal government developed in the United States, as in England, under the operation of a thoroughly well thought out General Municipal Corporations Act, that in spite of the different political conditions here, the local council, as a grand committee of the citizens, would have proved here also entirely adequate to administer the local public affairs in a progressive, efficient and economical manner; and that the mayor, while important and influential, would have been so by virtue of his experience and influence as a leading member of the Grand Committee rather than because of any independent powers attached to his office as mayor. Much may still be urged in favor of “council government” for cities when cities are really free from the meddling of state legislatures. But the Municipal Program, recognizing that according to American political traditions a clear line of demarcation has been sought to be drawn between the functions of legislation, *i. e.*, of determining policy, and of the executive, *i. e.*, the execution of the policy determined upon, and that according to American precedents these functions have been sought to be entrusted to separate agencies; recognizing, also, that the line of municipal development in this country has been toward the exalting of the office of mayor and the enlargement of his powers as the chief local executive, has preserved that office and clothed it with full power to enforce, and corresponding responsibility for enforce-

ing, the execution of the local public policy. On the other hand, the Program recognizes that this policy should be determined by representatives chosen for that purpose by the citizens of the locality; and the local legislature, not the state legislature, is clothed with the power to decide every question of local policy, be it important like the ownership or operation of public utilities, or comparatively trifling like street encumbrances. The mayor and the members of the council are the only elective officers. Candidates must be nominated by petition. Local elections are separated by a year's interval from national or state elections. The ballot will be simple; the voter will not be confused by a multitude of offices and candidates. The secrecy of his vote is guaranteed. The Program recognizes also that in cities a larger share of the activities of government than in the state or national field is necessarily occupied with mere business administration which has no relation to political partisanship; and the merit principle is rigidly applied to every department of purely administrative public service in cities. That the great administrative departments in modern city governments should in the public interest be entrusted only to qualified specialists, experts in their several callings who should find satisfactory careers in performing their duties, the Program recommends that there be no fixed terms for such officers, but that the term depend solely upon efficient performance of official duties subject to termination at any time by the mayor for non-political reasons publicly stated. The Program also provides a method by which within certain limitations a city may make its own scheme of government for the exercise of the powers entrusted to it.

Clothed with ample authority to administer their local affairs, the people of the city cannot secure relief from their mistakes by application to outside authority, nor can they be made to suffer from the misdirected kindness or evil interference of any outside authority—this is the central thought of the Municipal Program. The will of the people,

when deliberately expressed, will control, and the people cannot escape expressing their will.

The alert public opinion certain to arise under such circumstances will find its sure and adequate expression in the city government. The local government will rest upon and be directly responsive to the local public opinion. This is the inner meaning of "Home Rule," a city government responsible to the people of the city. The struggle to obtain it is a part of the great democratic movement to which we have alluded, and which in this country has been progressing with accelerating energy ever since the adoption of the national Constitution. It gave birth to the national political parties, has reduced the Electoral College to a formality, has enlarged the suffrage, has transformed our state constitutions from declarations of principles to detailed statutes, has increased and is increasing the number of questions of public policy to be submitted to direct popular vote. In its constant efforts to clothe political power with political responsibility to the people as the real source of power, it has exalted the executive in national, state and local government, some times by statutes, more often by extra-legal practices ; it has improved our election laws and is bettering our nomination methods ; it is gradually purifying the public service ; it is the irresistible foe of absolutism and, in the not distant future, will displace the "boss" in political parties by responsible leadership. In its larger aspect, it is a part of the perennial human struggle for freedom.

HORACE E. DEMING.

*New York City.*